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MONTGOMERY COUNTY COUNCIL

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PUBLIC HEARING

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April 22, 1986

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Bill 19-86

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The hearings were held in the Third Floor
Hearing Room, County Office Building, 100 Maryland
Avenue, Rockville, Maryland, at 7:30 p.m., William
Hanna, President, presiding.

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PRESENT:

WILLIAM HANNA	President
NEAL POTTER	Vice President
SCOTT FOSLER	Member
DAVID SCULL	Member
ESTHER P. GELMAN	Member
MICHAEL GUDIS	Member
ROSE CRENCIA	Member

APR 28 1986 P 2:15

1 WITNESSES:

2 Mr. William Garrett
3 Personnel Director
4 Montgomery County Government

5 Mr. William Thompson
6 Zwerdling, Paul, Leeibig, Kahn & Thompson
7 1025 Connectivut Avenue, N.W.
8 Suite 307
9 Washington, D.C. 20036

10 Mr. Keith Prouty
11 9714 Rutley Road
12 Bethesda, Maryland

13 Dr. Robert Allnutt
14 9104 Alton Parkway
15 Silver Spring, Maryland

16 Ms. Sarita Kubli
17 8012 Park Lane
18 Bethesda, Maryland

19 Mr. Ron Phillips
20 3815 Rodman Street, N.W.
21 Washington, D.C.

22 Dr. Rochelle Herman
23 5125 King Charles Way
24 Bethesda, Maryland

25 Ms. Darlene Taper
 8024 Park Lane
 Bethesda, Maryland

 Ms. Lulu Richardson
 1106 Ednor Road
 Silver Spring, Maryland

 Ms. Diana Tash
 1216 North Belgrade Road
 Silver Spring, Maryland

 Mr. Irv Riskind

 Ms. Maureen Walter
 17419 Hoskinson Road
 Poolesville, Maryland

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 WASHINGTON, D.C. 20005

1 WITNESSES (continued)

2 Mr. Vincent Foo
3 Mr. James Morrow
4 Mr. Ernie Greco
5 Mr. Josh Williams
6 Maryland/D.C. ALF-CIO
7 1012 14th Street, N.W.
8 Washington, D.C.

9 Mr. Mark Simon
10 Montgomery County Education Association

11 Mr. Dave Robbins
12 17 Lodge Drive
13 Rockville, Maryland

14 Mr. Earl Casey
15 6940 Westmoreland Road
16 Falls Church, Virginia

17 Ms. Maria Coleman
18 6979 Barrett Road
19 Falls Church, Virginia

20 Mr. Mark Simon
21 6923 Jefferson Avenue
22 Falls Church, Virginia

23 Dr. Mauricio Cortina
24 5 Sunnyside Road
25 Silver Spring, Maryland

Ms. Heidi Hsia

Mr. Roger Wolfe
Montgomery County Equipment Division

Mr. Harold Wirth
Montgomery County Taxpayers League

P R O C E E D I N G S

(7:37 p.m.)

MR. HANNA: Good evening, ladies and gentlemen. This is a public hearing on Legislative Bill 19-86, County Employee Collective Bargaining, an act to (1) establish the framework for public employer-employee labor relations; (2) provide the method for designating an employee organization as the exclusive representative of public employees in the appropriate unit; (3) provide procedures for collective bargaining of wages, hours and other terms and conditions of employment; (4) provide for the appointment of a labor relations administrator; (5) define the rights of employees, employee organizations and the public employer; (6) prohibit certain conduct; (7) provide procedures for resolving differences between the public employer and employees; (8) generally assure uninterrupted operation of government services; and (9) generally provide for the establishment of County employee collective bargaining.

At the conclusion of the hearing, the record will be kept open for two weeks. The Council has scheduled work sessions on the bill beginning, hopefully, May 29th.

So, okay, the ground rules are as follows.

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1 We go by a system of lights. We have two microphones.
2 I'll ask two people to, the speaker and the one
3 following, to come to the bench up here. If you're
4 the speaker, please give your name, the organization
5 you represent if you do represent one, and your
6 address. And you have had times assigned to you,
7 either as five minutes for an organization or three
8 minutes for an individual. And we operate according
9 to the lights. When you have 30 seconds left of your
10 time, the amber light will go on. When your time is
11 up, the red light will go on. And I would ask when
12 the red light goes on that you finish the sentence
13 you're in the middle of and stop. Otherwise, I will
14 stop you, and you won't like that and I don't like
15 to do it either. But we do have a large number of
16 speakers. And so in order that we run it as effi-
17 ciently as possible, I'd appreciate your cooperation.

18 With that, the first two speakers are
19 William Garrett and followed by William Thompson.

20 Good evening, Mr. Garrett.

21 MR. GARRETT: Good evening, sir.

22 MR. HANNA: At your --

23 MR. GARRETT: Are you going to give me a
24 que or --

25 MR. HANNA: Take it away!

1 MR. GARRETT: Mr. President and members
2 of the Council, my name is William Garrett. I'm
3 Personnel Director for Montgomery County Government.
4 And I've been requested by the County Executive,
5 Mr. Charles Gilchrist, to present his views on Bill
6 No. 19-86, County Employee Collective Bargaining.

7 The voters of Montgomery County adopted
8 Section 511 of the County Charter in November of 1984
9 permitting the County Council to provide by law for
10 collective bargaining for County employees not
11 otherwise covered.

12 The introduction of Bill 19-86 complies
13 with this Charter language and represents a signifi-
14 cant milestone in personnel administration and labor
15 relations in the County Government.

16 Formal presentation of employees by employee
17 organizations is not new to the County Government.
18 The County's Employer-employee Relations Act,
19 commonly referred to as Meet and Confer, was adopted
20 by the County Council in 1977. This law has served a
21 vital role in the transition of collective bargaining.

22 This Council has also had firsthand
23 experience in reviewing negotiated agreements resulting
24 from collective bargaining provisions of the Police
25 Labor Relations Act. As a result, the Government and

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1 its employees are now prepared for this important
2 step in the evolution of the employer-employee
3 relationship.

4 The bill as introduced covers those elements
5 of the bargaining process which are common to most
6 collective bargaining laws. It also recognizes the
7 unique characteristics of public sector employment and
8 the role of elected officials in representing the
9 public as an employer in the areas having physical
10 impact.

11 My comments this evening will be directed to
12 specific provisions of the law which the Executive
13 finds accurately reflect his opinion or are in the
14 need of further review.

15 1. The bill includes by definition the
16 units for representation. The net effect of the unit
17 structure as proposed will give bargaining rights to
18 approximately 1270 employees in the service, labor
19 and trades unit, and 2300 employees in the office,
20 professional and technical unit.

21 Including the unit structure in the legis-
22 lation will insure greater stability of labor relations
23 by minimizing the potential for a fragmented unit
24 structure and thereby avoiding major differences in
25 the treatment of employees.

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1 The structure will help to focus collective
2 bargaining and subsequent contract administration on
3 uniform and consistent treatment of employees, the
4 hallmark of the County's merit system. The two units
5 proposed were adopted under the Meet and Confer Law,
6 and this will provide for an easy transition from
7 Meet and Confer to the Collective Bargaining
8 Relationship.

9 Employee as defined under the law provides
10 for a number of exclusions which affect those
11 employees in confidential, management or supervisory
12 positions. These employees have been traditionally
13 excluded from bargaining rights because of their role
14 in the development of management issues, exposure to
15 confidential personnel matters and enforcement of
16 negotiated agreements.

17 In addition, other exclusions include
18 probationary personnel who have yet to obtain full
19 status as employees, and State-County Merit System
20 employees who are minimally impacted by collective
21 bargaining decisions as their conditions of employment
22 are governed by another system.

23 The law requires that the selection of the
24 collective bargaining representative be based upon
25 a majority of those voting. The Executive is opposed

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1 to the proposed amendment which would require a
2 majority of those eligible to vote in order for there
3 to be a valid election. This amendment creates an
4 unnecessary hurdle to representation and is not
5 consistent with the Democratic tradition of popular
6 elections with which we are all familiar.

7 The subjects of bargaining and proposed
8 amendments causes some concern. The bill in its
9 present form limits bargaining on retirement to a
10 defined contribution retirement plan. The Montgomery
11 County Employees Retirement System is an intricate
12 part of the Employee Compensation package.

13 We believe that employees through their
14 representative should have the opportunity to bargain
15 over the full range of retirement benefits. As all of
16 the covered employees are currently members of the
17 County's retirement system, they do have a clear
18 interest in initiating or reacting to changes which
19 may affect their retirement.

20 The agency shop issue is also a matter
21 which is probably and properly the subject of
22 negotiations. Union security issues have traditionally
23 been bargained, and we are therefore opposed to any
24 amendment which excludes or limits this area as a
25 subject for bargaining.

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1 The Executive Branch is opposed to any
2 expansion of the meaning of effects bargaining under
3 Section 107(a)(7). Without careful delineation of of
4 the subject matter in this area, negotiating the effects
5 on employees of management actions can undermine the
6 employer's ability to function.

7 As an example, management must be in a
8 position to transfer employees based on organizational
9 need, typically, to improve the effectiveness of
10 operations and delivery of services. Under the
11 suggested amendment, management could be precluded
12 from transferring bargaining unit employees until the
13 economic impact of the transfer on employees was
14 negotiated.

15 The preservation of employer rights is
16 important in assuring that the Government's ability
17 to manage programs and provide services in an efficient
18 and effective manner is not obstructed. The Executive
19 Branch supports the clarification and the elaboration
20 of these rights in contrast to what is currently in the
21 Police law.

22 In particular, management must have the
23 right to set standards and take advantage of new
24 technology or research which improves the delivery
25 of services. The mechanics of the bargaining process

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1 are somewhat similar to those now provided under
2 the Police Law. It is noted that bargaining will
3 commence under the law no later than November 1.
4 This is conducive to the Executive Branch budget
5 deliberations and allow for the culmination of bargain-
6 ing in a time frame compatible with the presentation
7 of the County Executive's budget recommendations to
8 the County Council.

9 The proposed amendment to permit immediate
10 bargaining on subjects not requiring Council appropria-
11 tion or legislative action is ill advised. The time
12 frame for passage of this law and the requirement to
13 begin normal bargaining no later than November 1 would
14 not leave sufficient time to implement the other
15 aspects of the law relating to the appointment of the
16 Labor Relations Administrator, the conduct of
17 elections if necessary, and the appropriate preparation
18 for bargaining with the two designated units.

19 Moreover, the full range of issues under
20 subjects of bargaining should be available to the
21 parties in order to fashion an agreement which is
22 fair to the Government and its employees.

23 Finally, we concur in the use of factfinding
24 with recommendations as the basis for obtaining resolu-
25 tion of bargaining impasses. We believe that the public

1 airing of disputes will create the appropriate
2 incentive for the parties to make their best efforts
3 in obtaining an agreement.

4 This approach is used in many state and
5 local jurisdictions and has been shown to be effective.
6 In those situations where significant differences
7 exist in the parties' positions, Council involvement
8 will provide an additional catalyst for resolution.

9 In conclusion, there are other issues of a
10 more minor nature for which we will reserve comment
11 as the bill proceeds through the legislative process.
12 In the main, the Executive Branch is supportive of
13 the legislation as proposed and pledges its full
14 support in upcoming Council work sessions to obtain
15 legislation that is equitable to all parties and that
16 will foster a harmonious relationship between the
17 County Government and its employees.

18 Thank you for your attention.

19 MR. HANNA: Thank you, Mr. Garrett. Mrs.
20 Gelman has -- whoops, don't run away. Ms. Gelman
21 has a question.

22 MS. GELMAN: I don't know how to turn this
23 on anymore. Mr. Garrett, am I reading between the
24 lines and am I reading too much into it, to find in
25 here that the Executive does not want us to do the

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1 defined contributions?

2 MR. GARRETT: No, I don't believe you can
3 --

4 MS. GELMAN: I shouldn't infer that?

5 MR. GARRETT: No. My statements refer to
6 the fact that the elements of the bill only specific-
7 ally relate to bargaining on defined contributions.

8 MS. GELMAN: That's right. And we don't
9 have it yet, but we want to have it?

10 MR. GARRETT: Right. My statement refers
11 to the fact that not only does the Executive believe
12 that defined contribution plans --

13 MS. GELMAN: Can be bargained?

14 MR. GARRETT: -- can be bargained, but also
15 our current defined benefit plans as well, the full
16 range of retirement programs.

17 MS. GELMAN: Is there any representative
18 of the employees group on the Board now, supervises
19 the investments?

20 MR. GARRETT: No, we have no such structur.

21 MS. GELMAN: No such Board at all?

22 MR. GARRETT: There is a proposed Board.

23 MS. GELMAN: But there's -- who supervises
24 the investments now?

25 MR. GARRETT: Currently, it falls to my

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1 responsibility with the final authority being vested
2 in the Chief Administrative Officer.

3 MS. GELMAN: I see, okay. So there really
4 is nobody that sits on the Board. Even years ago at
5 the Planning Commission, there was always somebody at
6 the Board to oversee the pension arm.

7 MR. GARRETT: That's right. That structure
8 is missing here in Montgomery County.

9 MS. GELMAN: I sat on that Board, that's why.

10 MR. GARRETT: Which is strange.

11 MR. HANNA: Thank you, Mr. Garrett. That's
12 it? William Thompson.

13 MR. RENNE: Mr. President, Gino Renne. I'm
14 going to cede my time to Mr. Thompson. Ken Reichard
15 and Rex Trabue will be the same.

16 MR. HANNA: All right.

17 MR. THOMPSON: Good evening. My name is
18 William W. Thompson, II. I am a member of the law
19 firm of Zwerdling, Paul, Leibig, Kahn & Thompson,
20 1025 Connecticut Avenue, N.W., Suite 307, D.C.,
21 20036.

22 I am here representing MCGEO UFCW Local 400.
23 MCGEO Local 400 is the incumbent employee organization
24 representing approximately 3500 County Merit System
25 employees, pursuant to the County's present Meet and

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1 Confer Employee Relations Procedure.

2 On behalf of approximately 2300 office,
3 professional and technical employees and 1200 service,
4 labor and trades employees of the County, McGeo Local
5 400 has been at the forefront of the struggle to
6 obtain a comprehensive and equitable collective
7 bargaining law for Merit System employees.

8 This effort has culminated in the proposal
9 which the Council has before it today. However, the
10 struggle is not over. The proposed bill as reported
11 out of the Personnel Committee of the Council includes
12 a number of provisions and optional provisions which
13 seriously undermine the overall effectiveness of the
14 legislation, should these provisions be included in
15 the statute as passed by the full Council.

16 We will briefly discuss the most important
17 of these shortcomings in the time remaining. However,
18 I should point out that by not discussing a particular
19 section of the bill, we are indicating our complete
20 support of it at this time.

21 First, the bill, while making provision for
22 two collective bargaining units, includes an option
23 that one unit of all eligible Merit System employees
24 be created. MCGEO-Local 400 is uniquely qualified to
25 comment on this issue since we have been representing

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1 the two units, SLT and OPT, under Meet and Confer.

2 We strongly urge that the single unit concept
3 be rejected. The present unit structure was created
4 by the County after extensive review of the natural
5 and appropriate communities of interest among Merit
6 System employees.

7 We respectfully request that the Council
8 adopt the two-unit structure as set forth in the
9 principal body of the bill.

10 Second, the bill would exclude from coverage
11 of collective bargaining rights many Merit System
12 personnel who are currently included in the Meet and
13 Confer system. Among the employees to be excluded are
14 all employees in the Department of Social Services
15 and all persons in Merit Grade 27 and above.

16 The County's several hundred DSS employees
17 are hybrid State-County employees. We do not believe
18 that it is fair to deny these employees a voice in
19 the determination of that portion of their salary
20 which is set by the County. Bargaining over such a
21 narrow question would not be disruptive or even
22 significantly time consuming in the context of the
23 parties' overall relationship.

24 DSS employees who are principally female
25 should not be treated as second class citizens.

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1 The County Administration has also sought
2 to have all employees at Grade 27 and above declared
3 to be exempt from collective bargaining, apparently
4 on the theory that they are ipso facto managers.
5 MCGEO-Local 400 currently represents dozens of these
6 employees under Meet and Confer.

7 The County's proposal is thus contradicting
8 its own earlier determination that many employees at
9 Grade 27 and above have been appropriately included
10 in the community of interest of the present Meet and
11 Confer unit structure.

12 Third, the principal text of the bill permits
13 a one-time opportunity for the incumbent Meet and
14 Confer union to be recertified for collective bargain-
15 ing upon written proof that more than 50 per cent of
16 the collective bargaining unit wishes to be represented
17 by it.

18 Thus, when collective bargaining goes into
19 effect, another election would not be necessary.
20 However, an amendment would require MCGEO-Local 400
21 to go through the expensive and time-consuming process
22 of yet another election. This proposed requirement
23 is not necessary, especially in light of the fact that
24 MCGEO-Local 400 doesn't want an election in the SLT
25 unit with 70 per cent of the vote. We strongly

1 oppose any automatic requirement for yet another
2 election.

3 The bill also proposes that 10 per cent
4 of the employees can petition to force an election
5 under that circumstance rather than the utilization
6 of the procedure for written proof of majority status.
7 We are absolutely opposed to permitting 10 per cent
8 of any group to dictate to the majority how a determi-
9 nation of the incumbent's majority status will be
10 made.

11 We concede that if 30 per cent of the
12 employees in a unit wish to have an election rather
13 than a card check when this law goes into effect, then
14 an election would be appropriate. Thirty per cent is
15 a significant proportion of the group. Ten per cent
16 is not.

17 In most labor relations laws, including
18 this bill, 30 per cent of the employees can petition
19 for an election to decertify a union. We submit that
20 the same number should be required to force an
21 election rather than a card check.

22 Fourth, we strongly support the provision
23 of the bill permitting the parties to bargain an
24 agency shop. Agency shop would require nonmembers
25 to pay a certain fee for representation by the certified

1 representative unless such a payment is objected to
2 upon bona fide religious grounds. This provision
3 represents the normal rule in most jurisdictions.

4 We urge that the Council reject the options
5 that either no agency shop is permissible or that
6 agency shop can only be applied to employees who have
7 less than ten years of service.

8 Fifth, we wholeheartedly support the
9 Executive's position that all pensions should be
10 bargainable. That is a fundamental term and condition
11 of employment which should not in any way be excised
12 from the purview of collective bargaining under this
13 bill.

14 The bill as it stands limits bargaining
15 over pensions only to any new defined contribution
16 plan which might be promulgated by the County. We
17 vehemently object to limiting bargaining of any new
18 plan, assuming that it's so limited, to a defined
19 contribution plan.

20 What if the Council or the Administration
21 seek to establish a new defined benefit as opposed to
22 defined contribution plan? There is no reason only to
23 allow bargaining rights if a new defined contribution
24 plan is enacted.

25 Sixth, we absolutely support the provision

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1 of the bill which permits the parties to bargain
2 binding grievance arbitration. Grievance arbitration
3 provides a relatively quick and inexpensive method
4 for collective bargaining partners to insure that
5 their formal agreement is faithfully observed and
6 implemented.

7 Binding grievance arbitration is a hallmark
8 of collective bargaining in both the public and
9 private sectors. Without binding grievance arbitration,
10 both the County and the employee organization could be
11 subjected to endless contract litigation in the
12 courts.

13 The option appended to the bill which would
14 limit binding arbitration only to disciplinary matters
15 would take away from the employees the primary method
16 for enforcing contractual promises in collective
17 bargaining. A contract without binding arbitration
18 to enforce all of its provisions is not a complete
19 collective bargaining agreement.

20 Seventh, we strongly urge the Council to
21 reject the bill's proposed limitation on the County's
22 duty to bargain over the effects on employees of the
23 exercise of nonbargainable management rights. Often
24 management decisions such as the movement of workplace
25 from one area of the County to another cause serious

1 effects on employees. We believe that such effects
2 as transportation problems of affected employees must
3 be bargained. The bill would not permit such effects
4 bargain.

5 MCGEO-Local 400 urges the Council to adopt
6 the proposed option which is taken from the County's
7 Police Bargaining Bill and which requires that all
8 effects of the exercise of management rights be
9 bargained. Such a provision does not in any way
10 limit management's right to make the management
11 decisions.

12 Eighth, MCGEO-Local 400 submits that one of
13 the principal shortcomings of the body of the bill
14 is its failure to provide for any collective bargaining
15 agreement until July 1, 1987. If we assume that this
16 law will go into effect sometime in mid-1986, it is
17 absolutely unconscionable for the County to be able
18 to delay its implementation for approximately a year.

19 If the County has determined that public
20 policy is served by granting collective bargaining
21 to Merit employees, then Merit employees should be
22 able to bargain. We support the bill's option which
23 would permit simplified bargaining for a short
24 agreement on non-economic items only.

25 Finally, we strongly urge that the Meet and

1 Confer System be maintained and continued for all
2 employees who now enjoy its benefits but who are not
3 included in the collective bargaining system.

4 We have made our position clear that all
5 Meet and Confer employees should also be included
6 under collective bargaining. Should the Council,
7 however, choose otherwise, we urgently request that
8 at the very least, you do not take away from these
9 employees that right which they already have and
10 leave them consequently in a Meet and Confer
11 relationship with the County.

12 In conclusion, MCGEO-Local 400 congratulates
13 the County and particularly Personnel Committee
14 Chairperson Gelman and the other members of that
15 committee for having brought thus far an issue which
16 is of enormous interest and importance to the County
17 employees as well as the rest of the labor movement
18 in this area.

19 We urge the Council to seriously consider
20 the points that we have made to further improve the
21 bill which is now before you. MCGEO-Local 400 looks
22 forward eagerly to the early passge of this legis-
23 lation and to working with the Council and Executive
24 under this law in the years to come to foster
25 responsible and effective employeee relations.

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1 We believe that the morale and high quality
2 of service of County Merit System employees can be
3 considerably enhanced as a result of the recognition
4 that employees are partners with the County and service
5 to the public.

6 Thank you very much.

7 MR. HANNA: Thank you, Mr. Thompson.

8 (General Applause)

9 MR. HANNA: Ms. Gelman, is your light on?

10 MS. GELMAN: Yes, it is. It's on now.

11 Mr. Thompson, thank you for the kind words. Let me
12 assure everyone that we have spent more time together
13 in the last year than either of us has with our own
14 families.

15 MR. THOMPSON: That's true.

16 MS. GELMAN: And the fact that we're still
17 talking to each other is a mark of our stability and
18 our respect for one another. We've both learned a
19 lot. I think I've learned more than you have.

20 MR. THOMPSON: I've learned quite a bit
21 myself.

22 MS. GELMAN: But anyway, the way this bill
23 is presented, -- and we should have said this right
24 at the beginning -- we gave all the options for all
25 the possible clauses. And the first bill had many

1 substitutions made by the -- some of the options were
2 chosen over the included language by the Committee.
3 And we expect that the Council will do some of the
4 same.

5 But we hoped to save time -- and I certainly
6 hope we did -- because we spent enormous amounts of
7 time outlining all the possible options. For example,
8 those people under ten years were simply one option
9 in a series of options of how to do it. It wasn't that
10 anyone necessarily advocated it.

11 Now that I've thoroughly confused the
12 issue, thank you again.

13 MR. HANNA: Mr. Potter.

14 MR. POTTER: Does MCGEO represent all the
15 employees in these two categories of office,
16 professional and technical and service, labor and
17 trades?

18 MR. THOMPSON: Essentially, yes. There are,
19 I believe, a few changes which might be made when the
20 law goes into effect. One or two or three job
21 classifications might at the edges of those units
22 be in or out because of changes over the years in the
23 work force. The work force, the job classifications
24 constantly change.

25 But essentially, the answer to the question

1 is yes. It's the same two units.

2 MR. POTTER: They've all signed up and
3 support your testimony? Or what's your -- what are
4 your operating rules?

5 MR. THOMPSON: Well, the members of the
6 union, of course, are extremely supportive of this
7 bill and are understanding. And information is that
8 an overwhelming majority of both of the units are
9 cheering from the sidelines that this bill be passed.

10 Recently there was a service, labor and
11 trades election in December of 1985, and MCGEO-Local
12 400 won in that election an absolute majority of all
13 the votes that could be cast in the whole unit. So
14 I think there's no question of the support of the
15 employees for collective bargaining because one of
16 the main issues in that election was the fact that
17 collective bargaining was a goal of MCGEO-Local 400.

18 MR. POTTER: Sir, I understand that. I'm
19 just trying to understand to what extent there's
20 participation by all these people in your operations.

21 MR. RENNE: Gino Renne, Vice President,
22 MCGEO-Local 400.

23 MR. POTTER: Thank you.

24 MR. RENNE: I have to learn how to use the
25 mike before I can speak. To be specific to your

1 question, Mr. Potter, in the SLT Unit, we have better
2 than 65 to 70 per cent sign-up ratio. And in the
3 OPT Unit, we're closing the gap on approximately 50
4 per cent. We're somewhere between 43 per cent and
5 50 per cent sign-up. Those are the ratios as far as
6 membership is concerned.

7 MR. POTTER: Thank you.

8 MR. RENNE: You're welcome.

9 MR. POTTER: Thank you, gentlemen.

10 MR. THOMPSON: Thank you very much.

11 MR. HANNA: All right, Keith Prouty,
12 followed by Robert Allnutt.

13 (Mr. Prouty approaches stand)

14 MR. HANNA: Good evening, Keith.

15 MR. PROUTY: Mr. President, Member of the
16 Council, my name is Keith Prouty. I live at 9714
17 Rutley Road in Bethesda. I appear before you as a
18 friend of the Council and as a friend of employee
19 representation and of the collective bargaining
20 process.

21 I want to make three very simple points in
22 my comments this evening, Mr. President. First, I
23 urge that the Council move with alacrity to bring
24 Bill 19-86 through the work session process before
25 the Council in legislative session so that it can be

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1 adopted in final form well before the summer is upon
2 us.

3 My purpose is not to find fault with any
4 member of the Council but simply to remind all of
5 the members that the enabling legislation permitting
6 a collective bargaining bill was approved by the
7 voters on November 6, 1984. This is now April 22,
8 1986, and it's time we put democracy and the will of
9 the voters into practice with an absolute minimum of
10 delay.

11 Second, adoption of collective bargaining
12 for County employees is going to require a change in
13 attitude toward employee relations on the part of
14 both the County Executive and the County Council.
15 Collective bargaining means that employees have a
16 voice in the terms and conditions under which they
17 work.

18 The days of unilateral decisions will soon
19 be gone. Employee relations will become a two-way
20 street. This is not an easy election for management
21 in most cases to learn. I urge each member of the
22 Council to begin now to shift gears, whether you are
23 a candidate for re-election or whether you are moving
24 on to other arenas and to fulfill other ambitions.

25 Thirdly, as you deliberate on the details

1 of Bill 19-86, remember that you are creating the
2 climate under which labor relations will be conducted
3 with County employees. You can make a positive
4 contribution and build an attitude of trust and of
5 mutual responsibility by constructing a broad-based
6 bill which gives the parties the latitude to develop
7 a mature and a responsive relationship.

8 If, on the other hand, you haggle over
9 commas and threat over covering every contingency,
10 you will be breeding distrust, thereby sowing the
11 seeds of a divisive and a non-constructive relation-
12 ship.

13 I have great respect for the members of
14 the Council. I have great faith that you will bargain
15 in good faith in producing a sound, a flexible, and
16 a broadly-conceived document, one which is inclusive
17 rather than exclusive, in terms of subject matter for
18 negotiations, thereby not only establishing stable
19 labor relations but in generating a cooperative and a
20 productive work force.

21 Thank you.

22 MR. HANNA: Thank you, Mr. Prouty. It looks
23 like you're getting off easy tonight. I don't see
24 any lights.

25 MR. PROUTY: Thank you, Mr. President.

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1 MR. HANNA: Mr. Allnutt, followed by
2 Gustavo Caballero.

3 DR. ALLNUTT: Good evening, Mr. Hanna. My
4 name is Dr. Robert Allnutt. I live at 9104 Alton
5 Parkway in Silver Spring. A system of checks and
6 balances is essential to the continued democratic
7 function of our government. Providing collective
8 bargaining for the employees of Montgomery County is
9 a long-awaited step which will augment our system.

10 Careful consideration is required to
11 produce legislation which will be as fair as possible
12 and beneficial to all concerned.

13 As a member of a class who presently has
14 Meet and Confer status and whose right to collective
15 bargaining would be refused under this bill, I would
16 like to point out to the Council that blanket
17 exclusion of Grades 27 and above should be considered
18 an oversimplification.

19 It is understood why supervisory personnel
20 are to be carefully excluded from collective bargain-
21 ing. However, supervisory personnel can be found at
22 many different grade levels throughout County service.
23 And a specific grade is not necessarily an indication
24 of supervisory or management function.

25 Arbitrarily drawing a line at Grade 27

1 discriminates unfairly against employees who by
2 virtue of their training and experience are in Grade
3 27 and above. This is particularly true among County
4 dentists, physicians and psychologists who in the
5 current structure of the Health Department are not
6 supervisory in function.

7 I would like to suggest an amendment that
8 would strike the Grade 27 provision and instead rely
9 upon the definition of supervisor as put forth
10 immediately prior to that section. That is to strike
11 lines 10 and 11 on page 8. I am concerned that there
12 is an underlying message in this provision, that in
13 the foreseeable future the County Government does not
14 plan to employ non-managerial Merit employees at
15 Grade 27 or above.

16 As a member of a program which has also
17 had to face repeated threats of contracting out, I
18 would recommend passage of Amendment A which allows
19 broader effects bargaining so that employees may gain
20 the fairest possible treatment.

21 Collective bargaining will best serve all
22 of us if the Council addresses the structure the bill
23 conceptually as well as specifically to provide
24 desirable results, not just relying on simplicity
25 but instead by appraising the situation independently

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1 and making judgments based on fact.

2 Thank you.

3 MR. HANNA: Thank you, Mr. Allnutt.

4 Mr. Gudis?

5 MR. GUDIS: Ms. Gelman, don't run away.

6 As Chairperson of the Personnel Committee, was there
7 anything -- maybe I should ask Mr. Wilcox. The
8 doctor is concerned that there's an implication,
9 something that we don't see here, about the fact
10 that since Grade 27 and above are not included, that
11 the County may be faced with the fact you had
12 absolutely no --

13 MR. GELMAN: We had no --

14 MR. GUDIS: Nothing like that in mind?

15 MS. GELMAN: No, but I understand where
16 he's coming from. We all know that the Executive has
17 tried to contract out --

18 MR. GUDIS: Constantly, constantly.

19 MS. GELMAN: -- the physician services and
20 all. That was certainly not in our minds. The -- had
21 nothing to do -- I don't even know how the 27 -- we
22 needed a cutoff at some point. And --

23 MR. GUDIS: So that's it's possible that
24 as we go through these sessions here, if we decide
25 that we want to include people 27 and above that are

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1 nonsupervisory, we might -- well, we would certainly
2 consider them?

3 MS. GELMAN: You might have another -- there
4 are many options. Somebody later tonight is going to
5 suggest a separate unit for medical. There are many
6 options. There's no one way, but none of that came
7 before us.

8 MR. GUDIS: But I just think we want to make
9 sure we have on the record that it had nothing to do
10 with the idea --

11 MS. GELMAN: Now may I call my husband whom
12 I haven't spoken to since 6 o'clock this morning?
13 Thank you. He came in the other day just to see if
14 he could pick me out of the line-up.

15 MR. HANNA: Gustavo Caballero -- not with us.
16 All right. Sarita Kubli followed by Ron Phillips.
17 Is Ron Phillips with us?

18 (Ms. Kubli approaches stand.)

19 MS. KUBLI: My name is Sarita Kubli. I live
20 at 8012 Park Lane in Bethesda. I speak tonight as
21 President of the Montgomery County Department of
22 Public Libraries Staff Association, an organization
23 representing over 70 per cent of all eligible library
24 employees.

25 Seven days a week, including four evenings,

1 (for which we have never received shift differentials),
2 we provide the best possible public library service
3 and an ever-expanding range of other services to
4 County citizens.

5 Many of our members support collective
6 bargaining for County employees. The reasons are
7 simple. Although County Government public policy
8 assures the responsive, orderly, and efficient
9 operation of County Government and services, the
10 reality is a daily battle to maintain our own and
11 our patrons' safety, security and health.

12 We have always worked through the proper
13 channels to try to achieve a safe and secure working
14 environment, but this has not worked very well. Perhaps
15 working conditions are tolerable in the EOB and COB,
16 but we invite you to come out of the main County office
17 buildings and visit libraries and other work sites.

18 For over five years, computer and telephone
19 wires dangled under desks in the branches. These
20 wires caused several accidents including a broken rib.
21 Basic supplies and services are also a problem. We
22 fight daily for light bulbs, soap, toilet paper,
23 dusting, trash cans emptied.

24 Needless to say, contract cleaning isn't
25 working. How can buildings be properly maintained

1 when, we understand, there are only four carpenters
2 and four painters for 150 County buildings? Security
3 within the libraries is a constant worry. We handle
4 increasing amounts of money. And as other community
5 services are added, there will be even more.

6 Frankly, since, in our view, the County
7 Government has not assured the safety, security, and
8 decent working conditions that all employees deserve,
9 many library personnel feel they must use collective
10 bargaining to get decent working conditions.

11 Pay equity is also a major concern. We
12 believe there is gender-based wage discrimination
13 in County Government. One of the ways to achieve pay
14 equity is through collective bargaining. It has been
15 effective in other areas of the Country, and it may
16 be the most effective method for us.

17 We read in the local press on March 6th
18 of a pay equity proposal. We suspect this is nothing
19 but election year rhetoric. We've exhausted other
20 routes, and we are counting on collective bargaining
21 to hasten pay equity implementation and improved
22 working conditions for all County employees.

23 Thank you.

24 MR. HANNA: Thank you, Ms. Kubli.

25 (General Applause)

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1 MR. HANNA: Is your light on? No
2 questions.

3 Ron Phillips followed by Dr. Rochelle
4 Herman.

5 MR. PHILLIPS: Thank you. My name is
6 Ron Phillips. I am the National Representative for
7 the Union of American Physicians and Dentists. My
8 address is 3815 Rodman Street, N.W., Washington, D.C.
9 And I thank you for the opportunity to speak before
10 the Council.

11 The Union of American Physicians and
12 Dentists is a bona fide labor union registered with
13 the United States Department of Labor that has been
14 in existence for 13 years. At present, we represent
15 over 30,000 physicians and dentists in all practice
16 settings.

17 At the behest of the majority of physicians
18 employed by Montgomery County, I come before you to
19 petition for the inclusion of physicians in the
20 collective bargaining process.

21 As presently drafted, Bill 19-86 would
22 exclude all employees holding a Grade 27 or above
23 classification from the collective bargaining process.
24 The Union of American Physicians and Dentists concludes
25 from this language that employees Grade 27 or above are

1 being excluded from the collective bargaining
2 process solely on the basis of their salary range.

3 If we are correct in our assumptions, we
4 submit to you that there is no rationale, basis or
5 legal precedent for such a position. Indeed, one
6 merely needs to review the trends of collective
7 bargaining in recent years to learn that professional
8 baseball players, football players, movie producers
9 and directors are now being legally represented in
10 contract negotiations by their union.

11 Moreover, notwithstanding a general decline
12 in nationwide union membership due to the decline in
13 our industrial base, there has been a steady rise in
14 union membership in the white collar professional and
15 government employee areas.

16 Legally speaking, the Annotated Code of
17 Maryland, Article 89, Section 29 defines amongst other
18 things, an employer as the state, county, city and municipal
19 governments in any agency thereof. And it defines
20 an employee as an employee of the state, county, city,
21 and municipal government in any agency thereof.

22 In my review of the above-cited Code, I
23 could find no reference in this enabling legislation
24 that would exclude government employees from collective
25 bargaining on the basis of salary range.

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1 In addition to the question of exclusion
2 on the basis of salary range, it is well established
3 in both the public and private sectors that physicians
4 are properly placed in their own bargaining unit,
5 separate from other employees, health care and non-
6 health care professional and nonprofessional. In
7 numerous instances, the Union of American Physicians
8 and Dentists has more than adequately demonstrated
9 the distinct community of interest that exists amongst
10 physicians based on the work situation of physicians
11 in state and federal law.

12 However, it appears that in the drafting of
13 Bill 19-86, the authors have arbitrarily refused to
14 recognize not only the physicians right to collective
15 bargaining but also to the question of the right of
16 physicians to their own unit.

17 Furthermore, the authors have taken a
18 position that runs contrary to the preponderance of
19 expressed statutory and case law which grants
20 physicians these rights.

21 For the reasons stated above, the Union of
22 American Physicians and Dentists requests that a
23 separate full and fair hearing be on the issues
24 raised and any other issues deemed to be relevant to
25 the question of representation of physicians and their

1 right to a separate bargaining unit as soon as
2 possible to insure the physicians' right to full
3 access to the law.

4 Thank you.

5 MR. HANNA: Thank you, Mr. Phillips. Dr.
6 Herman, followed by Darlene Taper.

7 DR. HERMAN: My name is Rochelle Herman. I
8 live at 5125 King Charles Way, Bethesda. I have been
9 a psychiatrist with the County for six and a half
10 years. And I am a member of the Union of American
11 Physicians and Dentists even though I have no Meet
12 and Confer rights presently.

13 The medical profession has been under siege
14 from every direction. The same serious problems
15 affecting quality care in the private sector are now
16 facing medical care in the County. Essentially,
17 control over the quality of care is being wrested
18 from our profession and handed over to non-medical
19 personnel.

20 My Director is a Budget Analyst from OMB
21 whose professional abilities, as good as they are,
22 do not include any mental health experience whatsoever.
23 For one year now --
24 any clinical administrative support.

25

1 My memos about health care are given low
2 priority in favor of the pressing political issues.
3 There are no positions assigned to the Committee
4 for the Mental Health Reorganizations, and our
5 opinions have gone unheard.

6 Because of our ongoing concerns, we have
7 appealed to the American Psychiatric Association for
8 help. Dr. Roman testified before this Council in
9 April voicing strenuous objections to the de-
10 medicalization of mental health. Those objections
11 were transmitted to the administration and dismissed.

12 The recent mental health study which cost
13 the taxpayers \$60,000 was conducted by non-physicians
14 who declared that the medical model was no longer
15 relevant. Those investigators, heralded by the
16 administration, wanted to define physician roles as
17 just writing prescriptions and signing off Medicaid
18 forms, such as the role psychiatrists have in P.G.
19 County. And they have a poor reputation for mental
20 health care.

21 The social model promulgated by cost-
22 conscious administrators is indeed cheaper because
23 it utilizes lesser-trained personnel. But it has its
24 consequences. To cite a few examples from my cases,
25 a seriously ill patient in the highest risk category

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1 for suicide was treated for two years by a lesser
2 trained counselor before a psychiatric evaluation was
3 requested.

4 A minimally trained counselor sat with
5 my patient who was vomiting for 12 hours attempting
6 to determine if his symptoms were "nerves or
7 physical." Nonmedical counselors have often told
8 my patients that their medication should be increased
9 or decreased or changed. One of my patients is
10 convinced she has a serious complication because of
11 a nonmedical counselor.

12 Not only am I told how to practice medicine
13 by nonmedical clinicians, but management retains the
14 right to do so also. I was told that I ordered too
15 many lab tests in December. The intrusion of non-
16 medical personnel to the daily practice of medicine
17 requires some counterbalancing force.

18 If quality care is not a persuasive argument
19 for collective bargaining, then consider medical
20 malpractice suits. The HMO's are learning quickly
21 that cost-cutting efficiency produces increased
22 liability.

23 In conclusion, I urge you to consider what
24 kind of treatment you yourselves would wish to
25 receive if you were less fortunate among our

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1 citizens and consider that collective bargaining
2 for physicians is not merely an issue of salary but
3 of basic quality of care.

4 Thank you.

5 MR. HANNA: Thank you, Dr. Herman.

6 (General Applause.)

7 MR. HANNA: Mr. Gudis has a question.

8 MR. GUDIS: Yeah. Dr. Herman, can we get
9 a copy of your testimony?

10 DR. HERMAN: Yes, I will provide later. I
11 didn't have the time to type it tonight. I'll
12 provide it. Shall I send it to each member?

13 MR. GUDIS: Just send it to the President,
14 and we'll all get a copy automatically. Thank you.

15 MR. HANNA: Darlene Taper followed by
16 Lulu Richardson.

17 (Ms. Taper approaches stand.)

18 MS. TAPER: My name is Darlene Taper,
19 Chairperson of the Staff Nurse Council. I reside at
20 8024 Park Lane in Bethesda, Maryland. I am here
21 tonight to testify on behalf of the Staff Nurse
22 Council of Montgomery County.

23 The Staff Nurse Council represents pro-
24 fessional community health nurses employed in the
25 Health Department working in a variety of settings

1 which includes schools, health centers, clinics and
2 homes. They provide numerous services which improve
3 and maintain the quality of life in this County.

4 Some of their numerous responsibilities
5 include the administration of immunizations, health
6 assessments of the newborn, school-age child and the
7 elderly, counseling and teaching for maternity
8 patients, screening for tuberculosis and other
9 communicable diseases with contact studies to prevent
10 their further spread, crisis intervention for child
11 abuse, adult abuse, suicide prevention, counseling
12 and referral for alcohol and drug abuse within our
13 school age and adult population, and counseling and
14 referral for needed mental health services.

15 Our patients range in age from the unborn
16 to the elderly, transcending all socio-economic
17 levels. We are frequently called upon to provide
18 nursing intervention in situations that may be
19 considered the dark side of life in our County.

20 We the nurses of Montgomery County Health
21 Department have experienced firsthand the limitations
22 of Meet and Confer. Our nurses were intimately
23 involved in the Joint Committee for Classification
24 Review which was established in July of 1984 to
25 review the classification of the Nurse Series which

1 was to have been reviewed in 1981. This action was
2 taken only after numerous attempts had been made
3 over a two-year period to have a consultant study
4 of our series released. This study was made available
5 to us only after a grievance was filed and the study
6 found to be deficient and inaccurate in many areas.

7 After nine months of Joint Committee
8 meetings, which included representatives from the
9 Personnel Department, Montgomery County Health
10 Department staff and nursing professionals outside
11 of the Health Department, the final personnel
12 recommendations were not consistent with the
13 quantifiable evidence as to our qualifications and
14 present job responsibilities.

15 It was only after the intervention of
16 William Thompson, the attorney for MCGEO, that the
17 nurses obtained the appropriate pay grades. Phase two
18 of this struggle over classification continues and
19 will probably not be resolved until the summer of
20 1986 in the Circuit Court of Appeals.

21 The County trend toward contracting out
22 has caused much unrest and anxiety among the
23 community health nurses. Although from a purely
24 theoretical economic standpoint it may seem the
25 logical thing to do, studies have shown that not only

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1 the employees, but clients suffer in the long run.

2 The recently-publicized employee attitudes
3 survey initiated by the Merit Systems Protection
4 Board indicated that all is not well with the
5 employees of Montgomery County Government. Wurther &
6 Lockhart in discussing labor relations in the health
7 profession stated the following: Advanced educational
8 requirements, years of study, and the proliferation
9 of other professionals have changed the character of
10 health care providers. Although still influenced by
11 humanitarian consideration, they are primarily
12 employees. Their motivations include more than just
13 the esteem needs of achievement and recognition
14 derived from helping others. They are also motivated
15 to work by economic and interpersonal need. Unlike
16 their predecessors, these employees demand more than
17 just humanitarian satisfaction. This is especially
18 true when you consider the growing number of single,
19 divorced and widowed nurses who in many cases are
20 supporting not only themselves but oftentimes children
21 and parents.

22 It is difficult to pay for the necessities
23 of life, not to mention medical and dental expenses,
24 with humanitarian satisfaction. This point becomes
25 even more of a reality when you consider that this

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1 year teachers in Montgomery County will be getting
2 a 5 per cent cost of living allocation, police, 4 per
3 cent, and we the nurses of Montgomery County Health
4 Department, 3 per cent at best.

5 Wurther & Lockhart go on to say that when
6 the multiple economic, social and esteem needs of
7 today's health care workers are not satisfied, the
8 repercussions reverberate throughout the facility.
9 Whether employees resign or become less productive,
10 these responses create problems that could diminish
11 the quality of health care. Sooner or later, these
12 problems require action by management. If that action
13 does not result in sufficient and properly-
14 distributed rewards, the employees taken action.

15 With that in mind, I would like to conclude
16 by saying that the Community Health Nurses of
17 Montgomery County have found the policy of Meet and
18 Confer to be unsatisfactory. The voters of the County
19 have given us the privilege of collective bargaining,
20 and it is the consensus of the staff nurses of the
21 Montgomery County Health Department that they wish
22 to be represented by MCGEO in this endeavor.

23 I thank you.

24 (General Applause)

25 MR. HANNA: Mr. Scull.

1 MR. SCULL: What was the result of your
2 Merit Board action in terms of a percentage pay
3 increase?

4 MS. TAPER: It was a grade increase. It
5 was not to exceed 5 per cent in most cases. We
6 initially had all staff nurses at a Grade 18. As a
7 result of the Joint Committee, it was recommended
8 that we be reclassified as incoming at Grade 19 and
9 full performance as Grade 21. However, the majority
10 recommendations were at Grade 19 and Grade 22. And
11 it was a result of the intervention of Mr. Thompson
12 that we indeed did get Grades 19's and 22's.

13 MR. SCULL: What did that work out to for
14 the average nurse?

15 MS. TAPER: The average nurse was to get
16 a pay increase not to exceed 5 per cent in most
17 cases.

18 MR. SCULL: And it was retroactive for
19 some?

20 MS. TAPER: It was retroactive. The initial
21 agreement was for retroactivity to December 31st of
22 1984.

23 MR. SCULL: Is that the way it came out?

24 MS. TAPER: At present, that's what the
25 standing is. What is now within the, what is now going

1 to, probably going to the Court of Appeals is
2 retroactivity back to August of 1981.

3 MR. SCULL: But it did work out to 5 per
4 cent average for all?

5 MS. TAPER: There were some people because
6 of where they were within the pay scale that I believe
7 received more than 5 per cent. But the majority of
8 us received a pay increase that did not exceed 5 per
9 cent.

10 MR. SCULL: Thank you.

11 MS. TAPER: Thank you.

12 MR. HANNA: Mr. Gudis.

13 MR. GUDIS: Yes. The reason it went to
14 court was because?

15 MS. TAPER: The Merit Protection, Merit
16 Systems Protection Board had originally agreed with
17 the recommendation for the retroactivity. But it
18 was appealed by the Montgomery County Government.

19 MR. GUDIS: It was appealed by the Montgomery
20 County Government?

21 MS. TAPER: It is being appealed. It's in
22 the process of being appealed.

23 MR. GUDIS: I'm just trying to think of --
24 did we know about that?

25 MS. TAPER: I believe so.

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1 MR. GUDIS: But that's the only reason it
2 went to court? It went to court because of the
3 retroactivity?

4 MS. TAPER: That's correct.

5 MR. GUDIS: Of course, it didn't go to court
6 on the basis of the grades?

7 MS. TAPER: No. No, it didn't.

8 MR. GUDIS: I -- the reason I am especially
9 interested is because I met with the group of nurses.
10 Gosh, I don't remember how many -- at least two to
11 three years ago.

12 MS. TAPER: That's correct.

13 MR. GUDIS: And I remember we talked about
14 it. And I went to the Personnel Department after
15 that, and they told me they were working on it. It
16 sure took a long time.

17 MS. TAPER: It took a very long time.

18 MR. GUDIS: We have to do something about
19 that. Thank you.

20 MS. TAPER: Thank you.

21 MR. HANNA: Thank you, Ms. Taper. Lulu
22 Richardson followed by Diana Tash.

23 MS. RICHARDSON: I am Lulu Richardson. I
24 work for the Montgomery County Health Department,
25 the Dennis Avenue facility. And I live at 1106

1 Ednor Road, Silver Spring Maryland.

2 You have, I'm sure, often heard the
3 expression, I was an Army brat or I was a Navy brat.
4 Well, I was a union brat. My father was for 40 years
5 the National President of a strong and effective
6 government union.

7 I grew up during the time when great reforms
8 were brought about by collective bargaining. Wage
9 reforms, tremendous strides in environmental safety
10 in the work arena, reasonable and compassionate changes
11 in sick and annual leave policies, fair recognition
12 of longevity and better retirement benefits are just
13 a few of the important elements in a safe, secure and
14 more efficient working atmosphere brought about by
15 the unity of the workers for collective bargaining.

16 By following many individual demands to be
17 heard in one strong voice, you are not only benefiting
18 the workers and the laborers, but management as well.
19 By allowing the union to gather, collate and present
20 the views and proposals of the workers, you are eliminat-
21 ing the frustration, anger, dissatisfaction and
22 belligerency of the individual and exchanging it
23 for an unemotional unification of facts through the
24 voice of the union.

25 There is a problem in the work theater of

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1 the Montgomery County Government. In fact, there
2 are several. The one with which I am most concerned
3 is the feeling among my fellow workers that there is
4 little or no communication between management and the
5 working population.

6 There seems to be a laxity on the part of
7 management in assuring we are advised of policy
8 changes and/or proposals for changes. Memos advising
9 us of changes which affect our security and our jobs
10 or our well being as employees often go astray.

11 A number of times we have received such
12 information after the fact or not at all, thus
13 effectively preventing us from voicing our views or
14 opinions before the deadline. And there is always a
15 deadline. We are left with no alternatives.

16 Year after year we are plagued by the
17 budget blues. Like the sword of Damocles, the threat
18 of being RIF'd hangs by a thread over our heads.
19 Family economic security and plans for a predictable
20 future are a constant concern.

21 By allowing us the privilege of a collective
22 bargaining system, we feel much of this problem will
23 be alleviated by having the burden of furthering issues
24 voiced by our collective bargaining representative.

25 I thank you for permitting me to present my

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1 views and would like to close by saying, make us
2 happy, make our day, give us the means to have our
3 say. Help us to bargain effectively by letting us
4 do it collectively.

5 (General Applause)

6 MR. HANNA: Thank you, Ms. Richardson.
7 Diana Tash followed by Fred Keeney.

8 MS. TASH: Good evening. My name is Diana
9 Tash. I live at 1216 North Belgrade Road in Silver
10 Spring. For the past nine years, I have been a
11 Health Room Technician for the Health Department
12 based in the public schools.

13 I feel that collective bargaining would be
14 very beneficial to all of us. As things stand now,
15 we have no strong way to make our opinions heard
16 or to protest when we feel injustices. Because
17 teachers and supporting services personnel who are
18 also County employees have had collective bargaining
19 for some time, they have much more say in wages,
20 benefits and working conditions than we.

21 There are 100 Health Room Technicians
22 assigned throughout the County with very little
23 opportunity to meet and discuss problems or job-related
24 concerns.

25 In January of 1981, the Health Room Techs

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1 felt we deserved a reallocation of pay as we
2 thought there was an inequity of pay within the
3 County. Three of us worked for 15 months putting
4 together a packet which we presented to personnel
5 in July of 1982. We worked alone with very limited
6 knowledge of the system.

7 It took until March of 1984 for our upgrade
8 to be realized. Had we had a union and collective
9 bargaining, our endeavors could have been much more
10 expedient. Professionals could have given us guide-
11 lines to follow and spoken for or with us to Personnel
12 and the Merit Board.

13 Had we had some expertise and been fully
14 aware of time constraints, we would not have lost
15 retroactive pay due to timeliness.

16 It is proposed that next year the Vision
17 and Hearing Screening Program be contracted out. There
18 are only seven Vision Techs serving the entire County.
19 These women are very experienced, in the implementation
20 of this State-mandated program. It seems to me that
21 these positions are being abolished to save benefits,
22 not cost.

23 There was no staff input into this decision.
24 It is very possible that the entire program could
25 suffer from the absence of these experienced personnel.

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1 Collective bargaining would give us input into the
2 decisions affecting our employment and the opportunity
3 to propose ideas and solutions that might make the
4 implementation of these decisions smoother and more
5 equitable for all.

6 We need to know that our wages, benefits,
7 hours and working conditions will remain constant
8 and fair. Collective bargaining would give us a
9 sense of security in our jobs, a feeling of stability,
10 and the knowledge that someone would speak for us and
11 with us and that we would be heard.

12 Thank you.

13 (General Applause)

14 MR. HANNA: Thank you, Ms. Tash. Fred
15 Keeney? No Fred Keeney. All right. In that case,
16 Abe Bloom followed by Maureen Walter.

17 (Pause)

18 MR. RISKIND: My name is Irv Riskind of
19 the Grey Panthers. I'm sorry Mr. Bloom couldn't be
20 here this evening, but he asked if I would make a
21 statement for him.

22 I represent the Montgomery County and the
23 Grey Panthers. And we support Bill No. 19-86. We
24 support the right of collective bargaining for all
25 employees, a right engaged County employees, a right

1 enjoyed by workers in the private sector by law and
2 enjoyed by millions of State, County, and municipal
3 workers in other jurisdictions.

4 To deny these Montgomery County employees
5 this right places them in a status of second class
6 citizenship. We urge you to support Bill No. 19-86.

7 MR. HANNA: That was short.

8 MR. RISKIND: Very short. I don't want to --
9 just want to let you know that.

10 MR. HANNA: Thanks, Irv. Maureen Walter
11 followed by Vincent Foo.

12 MS. WALTER: My name is Maureen Walter. I
13 live at 17419 Hoskinson Road, Poolesville, Maryland.
14 And I'm speaking for the Police Service Aides
15 Association.

16 I have worked for Montgomery County for
17 16½ years. My group has 35 members, and the PSA's work
18 around the clock at the Police District Stations.
19 Many of us used to want to be career employees. Now
20 we're not so sure.

21 Frankly, I never thought I would be here
22 speaking up for collective bargaining. However, in
23 the last couple of years, I have seen a glaring need
24 for a system that would allow fair and equitable
25 treatment for County employees.

1 County employees are at a disadvantage
2 when it comes to dealing with the bureaucracy of
3 the government. We need to have a set of rules and
4 regulations that can't be bent arbitrarily to suit
5 either side's needs.

6 We need to have the security of a contract
7 with set standards for wages, pensions and working
8 conditions. We need to know what to expect when we
9 go to work. There must be some recourse for employees
10 when the rules are not followed.

11 Almost two years ago our group put in for
12 a reclassification. We have been assigned many jobs
13 that were outside of our current class specifications.
14 These specs were thoroughly researched, and we
15 submitted a very complete request package which
16 included economic growth, population growth,
17 commercial growth, job comparisons from other
18 metropolitan police agencies, and job assignments we
19 have been assigned due to budget constraints. This
20 was fully endorsed by the Police Department
21 administrative personnel.

22 We met in December of 1985 with the Personnel
23 Director. And he again stated that we were performing
24 duties that were not in our class specs. This was
25 to be straightened out with the Chief of Police.

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1 However, we were notified that we were to go to a
2 classification review committee who unanimously
3 recommended an upgrade.

4 It is our understanding that yesterday the
5 CAO decided that it was up to the Police Department
6 to include these duties in the position description
7 and not personnel.

8 After almost two years of going through the
9 present system, writing memo after memo justifying
10 our request time and time again, we are right back
11 where we started doing job duties that are outside of
12 our class specs. It is no wonder that many County
13 employees and supervisors are not satisfied, thereby
14 affecting the citizens of Montgomery County.

15 County employees have no say in their
16 employment issues. We have a very complicated system
17 to go through in order to make any changes. There is
18 no recourse for employees who along with their super-
19 visors feel there is a problem that needs to be
20 corrected.

21 Our particular position of PSA is caught
22 between the County Personnel Department and the
23 Police Department, both with their own sets of rules
24 and regulations. When we have a problem, we get passed
25 from one to the other with no satisfaction.

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1 Collective bargaining is sorely needed
2 to improve this lot of County workers and ultimately
3 the citizens of Montgomery County.

4 (General Applause)

5 MR. HANNA: Thank you, Ms. Walter. Mr.
6 Potter has a question.

7 MR. POTTER: Yeah. Some of the arbitrated
8 unfair treatment that you complained about in the
9 first part of your statement sounds like a basis for
10 grievances. Have you ever, any of you gone that
11 route?

12 MS. WALTER: Well, we just found this out
13 yesterday. This has been two years that this --
14 almost two years that this has been going on. We've
15 met with everybody in Personnel. We've done everything
16 that we did, that we had to. We got out the Personnel
17 Regulations, the administrative procedures. We've just
18 done everything.

19 MR. POTTER: Yeah. I can understand the
20 class job description and that kind of thing goes
21 through a lot of red tape and takes time. But you
22 spoke of arbitrated unfair treatment. You're talking
23 about with respect to this classification rather than
24 individual mistreatment. Is that it?

25 MS. WALTER: No. Along in the job -- there's

1 just so many things. I mean it's the Police
2 Department. We have the Police Department telling
3 us this is what we need to have done, and this is
4 what you're going to do.

5 As it turns out, these things are, according
6 to Personnel, not in our class specs and therefore,
7 we shouldn't be doing them. And yet we go to the
8 Police Department and they say that -- Personnel
9 says it's not in our class specs, and they say this
10 is in your class specs. This is what we tell you to
11 do, and this is what you have to do. So we're kind of
12 stuck.

13 MR. HANNA: All right. Vincent Foo followed
14 by Mark Simon.

15 MR. FOO: Good evening, Mr. President and
16 members of the Council. I have with me a few people
17 that represent labor. And I ask your indulgence or
18 your permission to modify the agenda here. Ed Lamon --

19 MR. HANNA: You can do anything with it as
20 long as it doesn't take more than five minutes.

21 MR. FOO: That's right. Ed Lamon, President
22 of Maryland/DC AFL-CIO is not here, but Mr. Joseph
23 Williams from Metropolitan Washington Council will
24 speak for him. And I have cleared with two other
25 people ahead of Mr. Lamon, Mark Simon and Dave Robbins,

1 for us to come up here together so that if it's okay
2 with you, we'll go ahead with the testament. Mine is
3 short, and I'd like to cede my time to Mr. Williams.
4 Thank you very much.

5 I'd like to introduce the people up here.
6 On my right is James Morrow, the Chairman of the
7 Montgomery County Court. On my left, Mr. Ernie
8 Greco from the Maryland State/D.C. AFL-CIO. And my
9 extreme left, Mr. Josh Williams, the President of the
10 Metropolitan/Washington Council.

11 MR. HANNA: All right.

12 MR. FOO: My name is Vincent Foo. I'm the
13 President of MCCSSE Local 500 of the Service Employees
14 International Union, AFL-CIO, representing 5500 non-
15 certificated employees of the public schools in
16 Montgomery County.

17 I'm here tonight to support the collective
18 bargaining bill for County Government employees.
19 Perhaps it should be noted that the citizens of
20 Montgomery County gave the employees the right to
21 bargain collectively with their employer. And we are
22 here tonight to help determine the procedures to be
23 sued to carry out the mandate of the electorate.

24 Let me address some of the key issues. One,
25 I believe collective bargaining rights were approved

1 by the citizens for all County Government employees.
2 And this Council has no right to exclude any employee
3 group.

4 Two, there should be no exclusions to the
5 subjects of bargaining, especially the pension plans.
6 And three, once an agreement is negotiated, all matters
7 in the agreement must be grievable and subject to
8 binding arbitration or the harmonious, peaceful and
9 cooperative relationship which the Council wants with
10 the employees will not exist.

11 The referendum on collective bargaining for
12 County employees was approved in November, 1984. It
13 is high time the County Council heed the voice of
14 the people and sit down at the negotiating table with
15 their employees.

16 Thank you very much.

17 (General Applause)

18 MR. GRECO: Mr. President and members of
19 the Council, my name is Ernie Greco of the Maryland
20 State and D.C. AFL-CIO. I'm here to give support
21 to the testimony you're about to hear from our Second
22 Vice President of our organization and also the
23 President of the Metropolitan Washington Central
24 Labor Council, Josh Williams.

25 MR. WILLIAMS: Mr. Chairman, members of the

1 Council, my name is Joshlin Williams. I am Second
2 Vice President of the Maryland State/D.C. AFL-CIO.
3 I'm also President of the Metropolitan Washington
4 Council AFL-CIO, address, 1012 14th Street, N.W.,
5 Washington, D.C.

6 I would like to commend the Council for
7 holding this hearing. And we look forward certainly
8 to a speedy action on the part of the Council. I
9 would like to comment upon a few sections with which
10 we have particular concerns.

11 One, we are opposed to the exclusion of
12 employees who work for the County Executive, the
13 County Council, the County Attorney, the Office of
14 Management and Budget, the Personnel Office, and the
15 Merit Systems Protection Board. While we agree that
16 confidential employees should be exempt, everyone who
17 works in these departments cannot be so categorized,
18 and they should be part of the appropriately defined
19 units.

20 Two, we oppose defining supervisor as anyone
21 directing the activities of three or more people.
22 Unless an employee has the authority to do the activi-
23 ties outlined in the first part of that definition,
24 they are not truly a supervisor and should be part of
25 the appropriate unit.

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1 Three, most public sector bargaining
2 laws and the private sector allow for elections to
3 be held among employees no sooner than 12 months
4 after an election at which no union was chosen. The
5 22 months outlined in this bill seems inordinately

6 Four, we have several problems with the
7 Management Rights clause. Aside from being overly
8 exhaustive, it includes several things which we feel
9 should be subject to bargaining. Item 7, allowing the
10 employer to arbitrarily decide when a job is ineffi-
11 cient or nonproductive, and item 17, allowing contract-
12 ing out or abolishing of jobs with only notice to
13 employees is not acceptable language.

14 These items as well as work rules and
15 regulations should be subject to bargaining.

16 Five, we would recommend eliminating the
17 list of items which limit the mediator when making
18 recommendations to the parties. It is unnecessarily
19 limiting and could work against the best interests
20 of management, labor and the public.

21 For example, another jurisdiction outside
22 the metro area may be more appropriate for certain
23 types of comparison.

24 Six, we do not agree with the process
25 outlined for impasse resolution. We are sympathetic

1 with the Council's interest in being an active part
2 of the collective bargaining process and in changing
3 the current situation which required the Council to
4 either approve or disapprove the final package.

5 But the process as outlined requires in effect that
6 the union bargain with the employees simultaneously
7 and would wreak havoc on the already complex and time
8 consuming activities.

9 To allow the Council to take votes on
10 disputed matters and to appropriate monies to pay for
11 either management or labor's position before agreement
12 has been reached makes the Council the final and
13 binding arbitrator and the real necessity of management
14 and labor come into an equitable agreement.

15 Seven, the language of the Prohibited
16 Practices section seem to promote the idea that unions
17 are violent, coercive, destruction organizations by
18 specifically prohibiting sabotage, etcetera. We would
19 like to see this type of language removed or added to
20 that, that the Employer Section language prohibiting
21 surveillance of employees, threats, harassment and
22 intimidation by the employer activities which we
23 see evidence of every day of the week.

24 Eight, in reference to the suggested amendment
25 we support two units instead of one as more

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1 appropriately representing the interests of the
2 affected employees. We oppose requiring a majority
3 of employees to participate in an election before it
4 can be certified. Elected officials do not have to
5 live with this restriction. And we see no reason why
6 public employees should.

7 We are in favor of allowing agency shop.
8 Since the union is required by law to represent all
9 workers in the bargaining unit, whether or not they
10 are a member, and since the union would have been
11 chosen by a majority of those voting, it is only
12 fair that the union be allowed to charge a fee to
13 those who choose not to belong.

14 The agency shop should extend to all,
15 regardless of length of service. Pensions as a form
16 of deferred wages and salaries should be a subject of
17 bargaining. Binding arbitration should be applicable
18 to all grievances including discipline and discharge.
19 And we support the right of the union to veto re-
20 appointment of the Labor Relations Administrator.

21 We have attached a summary of our position
22 to our testimony. Again, we commend the County
23 Council for tackling this legislation, and we look
24 forward to working with you on its passage through
25 the legislative process.

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1 Thank you.

2 (General Applause)

3 MR. HANNA: Thank you, gentlemen. I don't
4 see any questions, so thank you.

5 Mark Simon, followed by Dave Robbins.

6 MR. SIMON: Council President Hanna, members
7 of the Council, my name is Mark Simon. I'm President
8 of the Montgomery County Education Association
9 representing the 6500 teachers of Montgomery County.

10 I'm here tonight to testify concerning Bill
11 19-86 which would provide for County employees
12 collective bargaining rights. As members of the
13 Council are aware, the collective bargaining rights
14 of the County's public school teachers are separately
15 regulated by State and County law. Thus, employees
16 represented by MCEA would not be covered by 19-86
17 if it is enacted.

18 Nevertheless, we support any initiative which
19 recognizes the right of public employees to engage in
20 legitimate collective bargaining. To the extent that
21 Bill 19-86 accomplishes this aim by scrapping Meet
22 and Confer, and giving Montgomery County employees
23 some semblance of the right enjoyed by their counter-
24 parts in the private sector to bargain over wages,
25 hours, working conditions, health and safety, we

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1 applaud the effort.

2 There are, however, certain aspects of
3 Bill 19-86 that trouble MCEA. For example, the bill
4 proposes to exclude all person who are State Merit
5 System employees and persons in Grade 27 or above
6 from the unit eligible for collective bargaining
7 rights. These employees are currently represented
8 by Montgomery County Government Employees' Organization
9 under Meet and Confer. And it's both arbitrary and
10 unfair to exclude them from collective bargaining.

11 Under Bill 19-86 the Labor Relations
12 Administrator may accept cards or petitions signed
13 by a majority of the employees designating the
14 incumbent union as the bargaining agent unless
15 another union or 10 per cent of the employees petition
16 for an election.

17 We believe the alternative of accepting cards
18 is a good one, and it's one teachers also enjoy.
19 However, allowing 10 per cent of the employees to
20 thwart card certification is counter-productive because
21 it allows a very small minority to require the majority
22 to undergo the time, effort and expense associated
23 with an election.

24 It goes without saying that MCEA opposes the
25 proposed amendment to Bill 19-86 which would make an

1 election the only method for choosing a collective
2 bargaining representative.

3 While MCEA applauds the right to bargaining
4 concerning wages, hours and working conditions which
5 Bill 19-86 would guarantee, we do not understand the
6 limitations on bargaining applicable to pensions.
7 Bill 19-86 would not require the County to bargain
8 about the defined benefit plans which now provide
9 pensions for current employees.

10 The County would be required to bargain only
11 about defined contribution plans which do not now
12 exist. Furthermore, the County would be required to
13 bargain over defined contribution plans only if the
14 County enacts a law establishing a defined contribution
15 plan for new employees and for current employees who
16 choose to switch from their defined benefit plan to
17 a defined contribution plan.

18 There is no question that pensions are among
19 the most important of employee benefits. To limit
20 the type of plans about which the County must bargain
21 to plans which don't exist is thoroughly inequitable
22 and guts much of the impact of the ability to bargain
23 over basic conditions of employment with which Bill 19-
24 86 supposedly empowers public employees.

25 Finally, a word must be said about Bill 19-

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1 86's impasse procedure. Under Bill 19-86, impasse
2 will be broken by factfinding, which the County may
3 choose to accept or to ignore. County teachers are
4 familiar with this kind of factfinding as a way to
5 break impasse because a process similar to that
6 prescribed by 19-86 governs collective bargaining
7 for the County schools.

8 All that needs to be said is this. When
9 the employer is ultimately free to accept or reject
10 the recommendations of the factfinder and in the end
11 institutes whatever terms and conditions of employment
12 it wishes, there is little incentive for the employer
13 to engage in good faith bargaining because there is
14 little risk in denying the Union's proposal.

15 For bargaining to be effective, there must
16 be some semblance of parity between the parties.
17 Otherwise, bargaining is all, all too often becomes
18 a meaningless charade. If the County is truly
19 interested in meaningful collective bargaining, it
20 must either endow County employees with the right to
21 strike, or at the very least provide for binding
22 arbitration of impasse.

23 Thank you.

24 MR. HANNA: Thank you, Mr. Simon.

25 (General Applause)

1 MR. HANNA: No questions. Mr. Robbins.

2 MR. ROBBINS: Thank you, Mr. President. I
3 am Dave Robbins, and I reside at 17 Lodge Drive,
4 Rockville, Maryland.

5 I am pleased that the Montgomery County
6 Council is moving to implement Section 511 of the
7 Charter. With the introduction and hopefully the
8 passage of Bill 19-86, Montgomery County Merit System
9 employees can look forward to a new and, I believe,
10 very positive era in their relationship to government
11 management.

12 As an individual who has spent 23 of my
13 29 years in government as a Merit System or Civil
14 Service employee, I can readily identify with the
15 aspirations of public service employees who want to
16 play a greater role in determining their own
17 destinies.

18 I am convinced that the productivity of
19 public employees and the quality of the public
20 service they render is influenced by their relation-
21 ship with governmental management and the degree of
22 influence they feel they have with management.

23 Collective bargaining is an idea whose
24 time has come in public sector labor relations and
25 is certainly a logical evolution step for Meet and

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1 Confer. Bill 19-86 provides for a sound and workable
2 collective bargaining process. I would, however,
3 recommend that in the area of retirement plans, the
4 bargaining not be limited to any single plan but
5 that any and all plans or proposed plans be subject
6 to the bargaining process.

7 On the issue of breaking bargaining dead-
8 locks, I would hope that the Council would take a
9 hard look at binding arbitration models currently
10 in practice in the public sector to see if one
11 could be adopted to the proposed collective bargaining
12 process.

13 In summary, the Council's Personnel
14 Committee is to be commended for introducing this
15 progressive legislation. And I urge the full Council
16 to act favorably on it.

17 Thank you very much.

18 MR. HANNA: Thank you, Dave.

19 (General Applause)

20 MR. HANNA: Ms. Gelman has a question.

21 MS. GELMAN: Just a quick question, David.

22 MR. ROBBINS: Yes.

23 MS. GELMAN: We accept your thanks. We did
24 it because it was assigned to us, not because we were
25 looking for things to do. Very interesting year and

1 a half.

2 Let me ask you, when you transferred your
3 various years of government -- and I don't mean to
4 be too personal. I know you went from the Planning
5 Commission to the Federal Government -- were you
6 able to consolidate it all into our retirement
7 plan?

8 MR. ROBBINS: No. Unfortunately, --

9 MS. GELMAN: I'm not going to ask you to
10 explain that to me here.

11 MR. ROBBINS: No.

12 MS. GELMAN: I just am becoming more and
13 more aware --

14 MR. ROBBINS: There was a way of buying
15 some service, but it became so outrageously expensive
16 when you came back that it just wasn't economically
17 possible.

18 MS. GELMAN: I'm becoming more and more
19 concerned about portability for -- we'll talk about
20 it another time. Your answer of no is --

21 MR. ROBBINS: But you bring up a real serious
22 problem.

23 MS. GELMAN: It's a major problem. And
24 what happens is people become tethered to a particular
25 unit, you know, a unit of government. And it may be

1 wrong for both. Okay, that's the next thing we'll
2 deal with.

3 MR. HANNA: Thanks, David. All right,
4 Ed Lamon followed by Minor Christian.

5 No, not with us? All right, Minor
6 Christian followed by Betty Valdes.

7 MR. CASEY: Mr. President, my name is Earl
8 Casey. I am sitting in for Mr. Christian tonight.
9 I am Executive Director for the Food and Allied Service
10 Trades, Washington Metropolitan Council.

11 MR. HANNA: Okay.

12 MR. CASEY: I reside at 6940 Westmoreland
13 Road, Falls Church, Virginia. We support the bill's
14 option which would permit simplified bargaining for
15 a short agreement on non-economic issues. Such an
16 agreement would only be in effect until July 1
17 of '87.

18 Such a contract would serve to establish
19 many of the more basic standard type contract'
20 clauses so that bargaining for the first full-blown
21 contract could proceed more efficiently. We
22 respectfully request that the Council decide
23 to grant the process of collective bargaining as
24 soon as possible

25 We strongly urge that the Meet and Confer

1 system be maintained and continued for all
2 employees who now enjoy its benefits but who are
3 included in a collective bargaining system.

4 We urgently request that at the very least
5 you do not take away from these employees that
6 right which they already had. Meet and Confer does
7 not require the County to sit down and come to an
8 agreement regarding any employees concerned. Surely
9 the County has nothing to lose by continuing to
10 offer this group of employees at least a formal
11 mechanism for conducting representative discussions
12 with their employees.

13 We urge the County to seriously consider
14 the points that we have made and to further improve
15 the bill which is now before you.

16 Thank you very much.

17 (General Applause)

18 MR. HANNA: Thank you, Mr. Casey. Betty
19 Valdes, not with us. Okay, Maria Coleman followed
20 by Mark Simon. This is a different Mark Simon?

21 MS. GELMAN: Two mothers with but a single
22 thought.

23 MS. COLEMAN: Thank you, Mr. President
24 and Council members. My name is Maria Coleman, and
25 I'm President of Latin American Council for

1 Advancement.

2 I reside at 6979 Barrett Road, Falls
3 Church, Virginia. And I applaud this effort on your
4 part for Bill 19-86. However, as representative of
5 a group of minority or Hispanics, some of the areas
6 here concerns my membership. And as their repre-
7 sentative, I'm here addressing these issues.

8 And I would strongly urge you to take
9 a closer look at certain provisions and amendments
10 that you have proposed. Reading and quoting from
11 your statements, you seek to establish a framework
12 for public employee-employer labor relationships.
13 You also are seeking to provide procedures for resolv-
14 ing differences between the public employer and
15 employee.

16 Your provisions are calling for a single
17 unit versus a two bargaining unit. This amendment
18 attaches or attacks the principal of the basic rights,
19 the right to be well represented in our society. We
20 have developed certain categories and specializations
21 to handle the needs of each individual.

22 What you are proposing takes away from
23 those rights. An example would be that you may be
24 suggesting that a plumber intercede for a physician,
25 and one cannot relate to the other's needs.

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1 Another provision that you have suggested
2 or amended is binding grievances. How can a frame-
3 work be established for labor relations if
4 discrepancies and disagreements cannot be ventilated
5 to the process of arbitration except for those
6 cases of discipline and discharge?

7 This amendment alone I feel will compound,
8 not eliminate, the problems and discrepancies that
9 will be existing.

10 The amendment for a majority of the eligible
11 units to participate in the election to be, for the
12 result to be determinative, the right to vote as
13 one of my colleagues earlier said, also consists on
14 the right not to vote because in the U.S. of A, there
15 are more people that do not vote than those who are.
16 And if we follow this theory, our honorable
17 President, Ronald Reagan, would never have been
18 elected to the Presidency of the United States because
19 he was elected by 27 per cent of the eligible vote,
20 not of the people who voted, not of those who voted,
21 the total citizens voting within the U.S. of A.

22 So I seek your attention to these and many
23 other amendments that you propose to this bill. I
24 thank you for the opportunity to addressing this
25 Council. And we hope we can work together in this and

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1 many other situations.

2 Thank you.

3 MR. HANNA: Thank you, Ms. Coleman. Mark
4 Simon followed by Dr. Mauricio Cortina.

5 MR. SIMON: Mr. President, I am also Mark
6 Simon. I'm here to tell you that the Mark Simons
7 of this world support this legislation.

8 (General Laughter)

9 I am a representative of the Washington
10 Building and Construction Trades Council. I reside
11 at 6923 Jefferson Avenue in Falls Church. On behalf
12 of 30,000 area union construction workers who under-
13 stand and appreciate the importance of collective
14 bargaining, I urge you to extend collective bargaining
15 to County employees.

16 The cornerstone of our democracy is free
17 association. Without that right, labor unions as we
18 know them would not exist. In communist countries,
19 there are no free trade unions. In the United
20 States, labor unions seek to improve wages and
21 working conditions, insure respect for individual
22 dignity, and provide security on the job.

23 The process through which this is accom-
24 plished is collective bargaining. The fundamental
25 purpose of collective bargaining is to provide a

1 forum to reach accord on matters of concern to
2 management and labor. It is a means of matching
3 employee desire with employer needs. It is also a
4 system designed to protect the public welfare from
5 strife and unrest. When there is no such system to
6 settle differences or when bargaining breaks down
7 because inequality exists at the table, society
8 suffers.

9 In construction we know collective bargaining
10 as a system that has provided a fair living wage,
11 health insurance, retirement income, and protection
12 from arbitrary and abusive treatment. The system also
13 works for management.

14 Within the last several years union
15 contractors were able to win cost-reducing changes
16 from unions at the table they thought were necessary
17 to compete with the open shop. Both labor and
18 management benefit from mature and respected bargaining
19 relationships.

20 It has been established through careful
21 academic analysis that a unionized work force will
22 be more productive than a non-union. In construction
23 a 1983 study by Steven G. Allen at North Carolina
24 State University found square foot production per man
25 hour to be 38 per cent higher in construction of office

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1 buildings built predominantly by union labor.

2 Allen cited apprenticeship programs, less
3 supervision requirements, hiring halls and increased
4 management efficiency. Sleicher, Healy & Livernash
5 of Harvard Business School also have carefully
6 examined the effects unionization has on management
7 practices. They report more rational personnel
8 practices and careful monitoring of work raise
9 productivity by reducing organization slack.

10 Other studies by Brown and Medoff, University
11 of Maryland, Leonard, California State, Berkeley,
12 and Margaret Connerton at the U.S. Department of
13 Labor report superior union productivity in various
14 other settings.

15 As a basic right in our democratic society,
16 as a proven method of settling differences and because
17 of its effect on productivity, the ability to form
18 unions and engage in collective bargaining is in all
19 our interests.

20 The Washington Building and Construction
21 Trades Council supports this legislation to permit
22 County employees to engage in collective bargaining
23 as defined by MCGEO-Local 400.

24 Thank you.

25 MR. HANNA: Thank you, Mr. Simon.

1 (General Applause)

2 MR. HANNA: Dr. Cortina followed by Heidi
3 Hsia.

4 DR. CORTINA: My name is Mauricio Cortina.
5 My address is 5 Sunnyside Road, Silver Spring,
6 Maryland. I'm a psychiatrist employed half time
7 by the Montgomery County Health Department. Dr. Shaw
8 and I have brought with us a petition signed by other
9 members of the Health Department that support our
10 testimony.

11 I shall begin my testimony by telling a
12 true story. A committee was set up with representatives
13 from two different divisions in the County Government
14 to promote communication and understanding among
15 staff of the programs in the respective divisions.

16 After having met for some times, the
17 committee members requested a meeting with managers
18 to clarify the committee's responsibility and
19 authority and to question why they were not being
20 asked to participate in the broader reorganization.

21 In the meeting, one of the managers finally
22 admitted that it was no accident that employees were
23 excluded. The decision was deliberate and based on
24 higher management's belief that line workers should
25 not participate in reorganizations or policy matters.

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1 When one employee protested, he was
2 told, "employees have no rights." Unfortunately,
3 this obsolete type of management seems to be the norm
4 rather than the exception in the County. The recent
5 survey of employee attitudes sponsored by the Merit
6 Systems Protection Board confirms this. And I quote:
7 "The consultant based on elective experiencing
8 conducting surveys stated that he never seen more
9 cynicism, despair or general lack of trust in
10 management by a group of employees as found in these
11 surveys."

12 It was his belief that the results showed
13 a form of "absentee management as those responsible
14 for administration, supervision are not in touch with
15 their subordinates and exhibit a lack of concern for
16 them and their problems."

17 Many of us providing direct professional
18 services to Montgomery County citizens through the
19 County Government have turned to the union not because
20 we want better salaries or fringe benefits but because
21 we see the union as a viable channel to voice our
22 collective concerns and to participate cooperatively
23 with managers in developing more effective and
24 efficient programs.

25 The decision to exclude employees with

1 Grades 27 and above is both arbitrary and unjust,
2 arbitrary because many employees like myself with
3 Grades 27 and above are primarily providing direct
4 services, and there is no reason why we should be
5 excluded from collective bargaining.

6 Clearly, the distinction should be made
7 based on managerial supervisory responsibility and
8 not on grade. The proposed rule is unjust because
9 under Meet and Confer Grades 27 and above had been
10 represented by the union. The exclusion would
11 penalize County employees because of our professional
12 degrees and leave us no channels to contribute to
13 the organization of our workplace.

14 I would like to point out that union-
15 management relations need not be adversarial. Both
16 managers and employees have many interests in common.
17 Some of the largest and most important companies in
18 the United States are sponsoring significant,
19 cooperative union-management projects to deal with
20 problems of productivity and low morale.

21 Among them are AT&T and the Communications
22 Workers of America, General Motors and Ford, and the
23 United Auto Workers and Jamestown, an impressive
24 example of a decaying city that was revitalized by
25 government management and union cooperation. Can I

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1 finish the testimony?

2 MR. HANNA: You have 30 seconds.

3 DR. CORTINA: Okay. Montgomery County
4 has prided itself in being a leader. Union-management
5 cooperative projects can be a groundbreaking and
6 hopeful alternative to bureaucratic cynicism and
7 more effective programs.

8 I for one as a union member would welcome
9 the opportunity to help develop cooperative union-
10 management efforts in Montgomery County. But first
11 you have to let me stay in the union.

12 Thank you.

13 MR. HANNA: Dr. Cortina, thank you.

14 (General Applause)

15 DR. HANNA: I don't see any questions, so
16 thank you. Heidi Hsia followed by Roger Wolfe. How
17 close did I come to your name?

18 MS. HSIA: "SHA."

19 MR. HANNA: "SHA." Not even close.

20 MS. HSIA: Very close. Good evening,
21 President Hanna and members of the County Council.
22 My name is Heidi Hsia, and I'm a psychologist
23 who has worked in the Division of Mental Health
24 Services of the County Health Department for 13 years.
25 I'm presenting my testimony as an individual employee

1 rather than as a representative of my agency.

2 I support the enactment of the collective
3 bargaining law. I also support the idea that as
4 contracting out affects the job security of the
5 employees, then it becomes a bargainable issue.

6 However, the proposed bill would exclude
7 from collective bargaining persons of Grade 27 or
8 above who are currently included under the Meet and
9 Confer provisions.

10 I'm here tonight to advocate for the inclusion
11 of these employees in the proposed collective bargain-
12 ing unit because I strongly believe that a grade cutoff
13 at Grade 27 is extremely arbitrary.

14 First of all, in our department those of us
15 who occupy positions Grade 27 or above do so largely
16 because of the highly technical nature of our jobs
17 which required many years of postgraduate training.
18 We are the front line service providers who do not
19 possess power to make policies and to influence work
20 conditions. To exclude us from the bargaining unit
21 is to penalize us for our additional training and
22 skills as well as to preclude a highly educated group
23 of people from contributing to the collective bargain-
24 ing process.

25 Secondly, if the intent of the proposed law

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1 is to exclude supervisory personnel, then clearly
2 it cannot be done by grade level as there exists
3 supervisors below the Grade 27 and nonsupervisors
4 above Grade 27.

5 Thirdly, even for those of us who also serve
6 as clinic or program directors and/or professional
7 chiefs in addition to our clinical duties, we have
8 been penalized for the second time in a different way.
9 That is, not one of us is compensated with salary
10 increases for our additional administrative and
11 supervisory duties because the Personnel Office
12 considers them coordinative rather than supervisory
13 in nature. Therefore, we are called coordinators
14 sometimes when the Personnel Office decides to deny
15 us our salary increases and supervisors at other times
16 when it decides to deny us union representation.

17 Such inconsistencies in our personnel system
18 lead to utter frustration and low morale in our
19 County employees which has been so timely demonstrated
20 in the recent employees' attitudes survey.

21 In light of recent and still anticipated
22 change of leadership in the Health Department, we the
23 front line service providers Grade 27 or above more
24 than ever before need an effective avenue to voice
25 our expertise, to assist the new leaders, and most of

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1 all, to assure continuity of quality service to our
2 community.

3 I urge you to support the inclusion in
4 collective bargaining units of persons currently
5 included in the Meet and Confer units so we may
6 become active participants in what I hope is a
7 continuously forward movement of our County Government.

8 Thank you.

9 (General Applause)

10 MR. HANNA: All right, Roger Wolfe followed
11 by Don Shaw.

12 MR. WOLFE: Mr. President and County Council,
13 I'm representing, of course, the Equipment Section on
14 Seven Lockes Road.

15 (Microphone adjusted)

16 Mr. President and County Council, I'm
17 representing, of course, the Equipment Section on
18 Seven Lockes Road. And being a mechanic and the people
19 there, we -- they wanted me to address this bill to
20 keep what we already have in benefits.

21 And one thing that we have had a great concern
22 about is our differences in our cost of living raises
23 between the Police Department and the School Board
24 and of course which don't seem to be inconsistent
25 and our insurance which seems to be unreal because it,

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1 which is much higher than we feel is applicable.

2 Some of the departments or a majority of
3 the departments are furnished with tools and things
4 of this nature, and our department is not.

5 (Long Pause)

6 That's all I have. Thank you.

7 MR. HANNA: All right, Mr. Wolfe. Thank
8 you very much.

9 (General Applause)

10 MR. HANNA: Don Shaw followed by Harold Wirth.

11 MR. SHAW: My name is Donald C. Shaw. I
12 live at 124 Whittier Street, Takoma Park, D.C. I'm
13 employed by Montgomery County Department of
14 Transportation, Rockville-Gaithersburg Ride-On.
15 I'm here speaking on behalf of the bus operators and
16 mechanic helpers and controllers at the Gaithersburg
17 office to voice our support for Bill 19-86, collective
18 bargaining for County employees.

19 With collective bargaining and strong union
20 representation for County employees, I believe it
21 will improve a lot of things for us, especially
22 in seniority violations and management doing whatever
23 they want to do in telling you that you have no
24 rights if you want to do anything about it, even if
25 they do something and you can prove them wrong. By

1 the time you prove it, you've already been punished.

2 So it's no outlet for you. You don't have
3 any say-so in anything that affects you. Also, we
4 feel that all of the employees currently represented
5 by MCGEO-Local 400 should be a part of the collective
6 bargaining process.

7 We also feel that the County accepting cards
8 is a good idea. The 10 per cent provision to turn
9 that election around, we don't agree with that. We
10 feel that there should be a minimum of 30 per cent
11 because if the majority wants it, it should be
12 something close to the majority that can turn every-
13 thing around again.

14 Okay, on pensions, we feel that bargaining
15 should be allowed on any new pension plan. Also,
16 we feel that some form of binding arbitration is
17 necessary, period. Factfinding and Meet and Confer,
18 that's pretty much the way things are now, and it's
19 not working.

20 On agency shop, we feel that anybody who
21 benefits from the work of the union and the majority
22 of the people in that union, if they're going to, you
23 know, receive the benefits, then they should have to
24 pay a fee whether they want to join the union or not.
25 It's only fair to the majority.

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1 Thank you.

2 (General Applause)

3 MR. HANNA: Thank you, Mr. Shaw. I thank
4 you.

5 MR. SHAW: You're welcome.

6 MR. HANNA: Harold Wirth.

7 MR. WIRTH: Mr. President and members of
8 our County Council, before I begin my testimony, I'd
9 like to introduce you to the Chairman of the Board
10 of the Montgomery County Taxpayers League who is with
11 me on my right, Mr. Richard Mancuso.

12 My name is Harold Wirth. It hink you all
13 know me and my address. But at our regular meeting
14 of the Board of Directors on April 7th, the Montgomery
15 County Taxpayers League voted unanimously to
16 unalterably oppose the approval of Bill 19-86.

17 Since union control of government inevitably
18 leads to higher costs of government, our responsibility
19 to the taxpayers of our County dictates that we
20 impress upon you the unfairness of approving any act
21 leading to higher costs and therefore taxes.

22 There are several additional reasons why we
23 oppose enactment of such an unneeded and as possibly
24 leading to dual sovereignty law which is a contradic-
25 tion in terms.

1 Thomas Hobbes and John Locke in 17th
2 Century Great Britain stated that in order for a
3 democratic form of government to retain its integrity,
4 it cannot permit dual sovereignty which is a contra-
5 diction in terms.

6 In recent times, Sylvester Petro, a professor
7 of law at Wake Forest University in North Carolina,
8 has stated in the Wake Forest Law Review: "Government
9 sovereignty and compulsive public sector bargaining
10 are contradictory as well in practice as in logic.
11 The contradiction is so corrosive indeed as to dis-
12 solve all into meaningless.

13 Sovereignty means the supreme and unchallenga-
14 ble power of compulsion. Now, how therefore can a
15 genuine sovereign be forced by a private person or
16 agency to do something and remain still sovereign?"

17 The Missouri Supreme Court has stated:
18 "Public office or employment never has been and cannot
19 become a matter of bargaining and contracts."

20 Our County employees have great advantages
21 over employees in private industry. They have tenure,
22 are assured of steady work, an excellent vacation
23 schedule, and a pension far and above their neighbors
24 in the private sector.

25 I have friends who retired in the late

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1 sixties and seventies whose pensions today far
2 exceed their salaries and wages while in full time
3 County employment. No private organization can
4 possibly afford such a pension program. It would
5 bankrupt any industry which attempted it.

6 To illustrate the lack of planning on the
7 part of those responsible for the preparation of
8 Bill 19-86, you will note on page 33 of the Legislative
9 Request Report dated March 25, 1986, which states as
10 follows, and I quote:

11 "Coordination:

12 Fiscal Impact -- not available.

13 Economic Impact -- not available.

14 Evaluation -- not available.

15 Experience Elsewhere -- not available."

16 How can any intelligent government enact
17 a law with no knowledge of its financial or economic
18 impact on its taxpaying citizens or with no evaluation
19 or research on the impact of similar actions else-
20 where?

21 On page 30, paragraph 33.111a states that
22 no strikes or lockouts will be permitted. But
23 immediately following on paragraphs 33.111b and c,
24 provisions are outlined as to actions to be taken
25 should a strike occur, which implies that our County

1 Government is powerless to prevent a strike from
2 taking place if this bill is enacted.

3 Our final plea to you to reject this bill
4 is the fact that you will be breaking faith with
5 your constituents who elected you in good faith,
6 assuming you would justly govern them. This bill
7 takes your elective power right out of your hands
8 and places this power in the hands of union bosses
9 who will control our government. After unions find
10 themselves in power, they immediately endeavor to
11 force their members to pay for political beliefs
12 and candidates they oppose. It becomes apparent
13 that union bosses will elect your members in the
14 future, not your loyal constituents.

15 Therefore, you should reject this bill,
16 19-86, in toto.

17 MR. HANNA: Thank you, Mr. Wirth. Mr. Potter
18 has a question.

19 MR. POTTER: Yeah. About the will of the
20 electorate, how do you account for the passage of
21 Section 511 of the Charter two years ago?

22 (General Applause)

23 MR. WIRTH: Mr. Potter, I really don't
24 believe I understand your question.

25 MR. POTTER: Well, I understand that a

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1 majority of people voting in that election voted to
2 approve Section 511 which provides the power to provide
3 collective bargaining. So it has been to referendum.

4 MR. WIRTH: You mean your own employees did
5 this?

6 MR. POTTER: No. I'm talking about a valid
7 question in the election of 1984. I agree with you
8 we should check into experience elsewhere. I don't
9 think it would confirm your ominous testimony. The
10 -- I'm wondering if you're familiar with the basic
11 tenets of the Federal system which does imply divided
12 sovereignty. There are certain things which the
13 states can rule on and certain things which the
14 Federal Government can rule on. And when there is
15 conflict, the Federal Government supersedes. There
16 are a lot of things where there is not conflict, and
17 the Federal Government has no power to interfere.
18 So I think that's an illustration of divided
19 sovereignty, contrary to the quotes that you give
20 from certain academic sources.

21 MR. WIRTH: I have here, Mr. Potter and
22 Mr. Chairman, Mr. President, several very, very
23 extensive studies on the effects of public unions.
24 I'd like to give them to you for study by your members
25 before you actually enter into a work session on this

1 bill.

2 MR. POTTER: We'd appreciate the loan.

3 MR. WIRTH: These are written by authorities
4 on the subject from all over the United States. And
5 I'd like to present them to you.

6 MR. HANNA: Fine. We'll see that they are
7 available for circulation and reading.

8 MR. WIRTH: They're all different, Mr.
9 Chairman. So I would appreciate it if you would
10 arrange to have your various members pass them around
11 among each other so they can get the various viewpoints
12 of the authorities on this subject.

13 MR. HANNA: We'll make them all available
14 to all of the Council.

15 MR. WIRTH: Thank you, sir.

16 MR. HANNA: Ms. Gelman.

17 MS. GELMAN: Yes. Mr. Wirth, the material
18 that's attached to the bill that gives the fiscal
19 and economic impact comes over from the Office of
20 Management and Budget. And I claim no credit for it.

21 But we will try to get more updated
22 material. Okay? Because that certainly is insuffi-
23 cient. You're absolutely right. We want more
24 material. Thank you.

25 MR. HANNA: Mr. Scull.

1 MR. SCULL: I don't recall the Taxpayers League
2 taking the position on the Charter Amendment last time
3 that authorized collective bargaining. I don't
4 remember any testimony at the hearing we held before
5 we put that on the ballot at the recommendation of
6 the Charter Review Commission. It wasn't a matter of
7 discussion at the Taxpayers League in '84, was it?

8 MR. WIRTH: Not that I recall, Mr. Scull.

9 MR. SCULL: Thank you.

10 MR. HANNA: I believe that's all the
11 questions.

12 MR. WIRTH: It's very possible that the
13 Taxpayers League didn't realize the import of that
14 bill at the time.

15 MR. SCULL: Well, it was -- as Mr. Potter
16 said, it was approved by some totally overwhelmingly
17 vote, 99 per cent or something like that. There wasn't
18 any --

19 MR. POTTER: Not quite that much.

20 MR. SCULL: I don't what it was, but it was
21 --

22 MEMBER: It was 72.

23 MR. SCULL: Seventy-two. Well, was there
24 any organized opposition?

25 MEMBER: None whatsoever.

1 MR. SCULL: I didn't recall any. Okay,
2 thank you.

3 MR. WIRTH: I think you'll find a lot of
4 reasons why you want to consider this very carefully
5 before you pass this bill anyway.

6 MR. HANNA: Thank you, Mr. Wirth. I under-
7 stand one of the speakers who wasn't here at the time
8 he was called has come in. So I -- Fred Keeney?
9 Is he here? Oh, there he is. Now he is our last
10 speaker.

11 MR. KEENEY: Mr. President and members
12 of the Council, I feel like I've been around the
13 world tonight. I started off tonight in Bethesda
14 and had to rush to Upper Marlboro to testify before
15 the Prince George's County Council and rushed back
16 over here before you concluded your meetings.

17 So I'll try to be as brief as possible.
18 I did write up something short. Excuse me? I'm
19 trying to get Metro Station between Rockville and
20 Upper Marlboro.

21 When you're having joint council sessions
22 on the Park and Planning Budget, everybody gets --
23 not tonight. They've got over 100 speakers out
24 there.

25 The Fraternal Order of Police, the Maryland

1 National County and Park Police, support the
2 rights of the Montgomery County employees to have
3 collective bargaining.

4 We have reviewed the bill and would make
5 the following suggestions for your review. We would
6 like for you to allow employees of the uniformed
7 services serving at the rank of Lieutenant and below
8 to be included in the unit. To exclude these ranks
9 from the unit would cause eventual compression of
10 salary.

11 Montgomery County is the only county that
12 I know of at this point in Maryland that excludes
13 Sergeants from bargaining. If you will recall the
14 collective bargaining bill just passed for the Park
15 Police, that includes Sergeants and below.

16 The recall of the union that there be a
17 requirement of 30 per cent of the employees' signatures
18 on petition, the proposed 10 per cent recall allows
19 union busting by management, that all pensions be
20 allowed to be negotiated, to provide binding arbitra-
21 tion on bargaining impasse. This provides a fair
22 and equitable resolution to problems.

23 That State Merit System employees be allowed
24 to keep at minimum the Meet and Confer status they
25 enjoy now. The FOP also supports the ability of the

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1 union to have involvement in the selection of the
2 Labor Relations Administrator. Collective bargaining
3 fosters good relationships between employee and
4 employer through participatory management. One only
5 needs to look towards Prince George's County where
6 collective bargaining and employee-management
7 relations over the last five years to realize that
8 it works.

9 That concludes my written statement. One
10 thing I did want to add. If you recall two or three
11 years ago, Prince George's County was under TRIM. The
12 Labor Relations Administrator for Prince George's
13 County sat down with all the unions -- and I believe
14 they have about 25 different bargaining units they
15 have to bargain with.

16 They explained the County situation, the
17 predicament they were under TRIM, and the County
18 employees agreed not to ask for cost of living in
19 their budget. And they have binding arbitration.
20 They could have probably gone to an arbitrator and
21 gotten it. But because the relationship was there
22 between the County's administration and the unions,
23 they were dealt with fairly and equitably, and the
24 unions felt right to see the side of the County
25 Government at that point.

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1 I think if you go into collective bargaining
2 with an open mind and you're willing to work with
3 each other, you're going to resolve a lot of
4 problems very quickly and without a lot of problems.

5 MR. HANNA: Thank you, Mr. Keeney. Thank
6 you all, ladies and gentlemen. That concludes our
7 hearing for this evening.

8 (Whereupon, at 9:42 o'clock p.m., the
9 hearing was concluded.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript
In the matter of: Bill 19-86

Before: Montgomery County Council

Date: April 22, 1986

Place: Rockville, Maryland

represents the full and complete proceedings of the
aforementioned matter, as reported and reduced to type-
writing.

Miles Anderson

Miles Anderson